

REFERENCE TITLE: community facilities districts; counties

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2236

Introduced by
Representatives Konopnicki, Burns J, Senator Bee: Representative McClure,
Senator Flake

AN ACT

AMENDING SECTIONS 48-701, 48-717, 48-719 AND 48-723, ARIZONA REVISED
STATUTES; RELATING TO COMMUNITY FACILITIES DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 48-701, Arizona Revised Statutes, is amended to
3 read:

4 48-701. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Clerk" includes any person or official who performs the duties of
7 clerk of the municipality or county or any person appointed by the district
8 board to be the district clerk pursuant to section 48-711, subsection D.

9 2. "County" means a county that forms a community facilities district
10 pursuant to this article in an unincorporated area or in an incorporated area
11 with the municipality's consent ~~for the sole purpose of financing school~~
12 ~~sites and facilities as prescribed in paragraph 12, subdivision (k) of this~~
13 ~~section.~~

14 3. "Debt service" means the principal of, interest on and premium, if
15 any, on the bonds, when due, whether at maturity or prior redemption and fees
16 and costs of registrars, trustees, paying agents or other agents necessary to
17 handle the bonds and the costs of credit enhancement or liquidity support.

18 4. "District" means a tax levying community facilities district formed
19 pursuant to this article by a municipality or formed pursuant to this article
20 by a county in an unincorporated area or in an incorporated area with the
21 municipality's consent ~~for the sole purpose of financing school sites and~~
22 ~~facilities as prescribed in paragraph 12, subdivision (k) of this section.~~

23 5. "District board" means the board of directors of the district,
24 which shall be comprised of the members of the governing body of the
25 municipality or county, ex officio, or, at the option of the governing body,
26 five directors appointed by the governing body under this article.

27 6. "Enhanced municipal services" means public service provided by a
28 COUNTY OR municipality within the district at a higher level or to a greater
29 degree than provided in the remainder of the COUNTY OR municipality,
30 including such services as public safety, fire protection, street or sidewalk
31 cleaning or landscape maintenance in public areas.

32 7. "General obligation bond" means a bond that is issued pursuant to
33 section 48-719 and that is secured by a pledge of ad valorem taxes levied by
34 the district.

35 8. "General plan" means the general plan described in section 48-702,
36 subsection B, as the plan may be amended.

37 9. "Governing body" means the body or board which by law is
38 constituted as the legislative department of the municipality or county.

39 10. "Municipality" means an incorporated city or town.

40 11. "Owner" means the person who, on the day the action, election or
41 proceeding is begun or held, appears to be the owner of real property as
42 shown on the property tax assessment roll.

43 12. "Public infrastructure" means all improvements listed in this
44 paragraph that will result in a beneficial use principally to land within the
45 geographical limits of the district and may include a district's share of any

1 improvements listed in this paragraph if the district board determines such
2 share is proportionate to the beneficial use of such improvements to land
3 within the geographical limits of the district, improvements within or
4 outside the geographical limits of the district, necessary or incidental
5 work, whether newly constructed, renovated or existing, and all necessary or
6 desirable appurtenances. For the purposes of this paragraph, adoption by the
7 district board of a resolution of intent pursuant to section 48-715 shall
8 conclusively establish that the improvements or, if applicable, share of the
9 improvements that are the subject of the resolution will result in a
10 beneficial use principally to land within the geographical limits of the
11 district. Public infrastructure improvements are:

12 (a) Sanitary sewage systems, including collection, transport, storage,
13 treatment, dispersal, effluent use and discharge.

14 (b) Drainage and flood control systems, including collection,
15 transport, diversion, storage, detention, retention, dispersal, use and
16 discharge.

17 (c) Water systems for domestic, industrial, irrigation, municipal or
18 fire protection purposes, including production, collection, storage,
19 treatment, transport, delivery, connection and dispersal, but not including
20 facilities for agricultural irrigation purposes unless for the repair or
21 replacement of existing facilities when required by other improvements
22 permitted by this article.

23 (d) Highways, streets, roadways and parking facilities, including all
24 areas for vehicular use for travel, ingress, egress and parking.

25 (e) Areas for pedestrian, equestrian, bicycle or other nonmotor
26 vehicle use for travel, ingress, egress and parking.

27 (f) Pedestrian malls, parks, recreational facilities other than
28 stadiums, and open space areas for the use of members of the public for
29 entertainment, assembly and recreation.

30 (g) Landscaping, including earthworks, structures, lakes and other
31 water features, plants, trees and related water delivery systems.

32 (h) Public buildings, public safety facilities and fire protection
33 facilities.

34 (i) Lighting systems.

35 (j) Traffic control systems and devices, including signals, controls,
36 markings and signage.

37 (k) School sites and facilities with the consent of the governing
38 board of the school district for which the site or facility is to be
39 acquired, constructed or renovated.

40 (l) Equipment, vehicles, furnishings and other personalty related to
41 the items listed in this paragraph.

42 13. "Public infrastructure purpose" means:

43 (a) Planning, design, engineering, construction, acquisition or
44 installation of public infrastructure.

(b) Acquiring, converting, renovating or improving existing facilities for public infrastructure.

(c) Acquiring interests in real property for public infrastructure.

(d) Establishing, maintaining and replenishing reserves from any source described in section 48-717 or from any other source in order to secure payment of debt service on bonds.

(e) Notwithstanding section 48-589, funding and paying from bond proceeds interest accruing on bonds for a period of not to exceed three years from their date of issuance.

(f) Providing for the timely payment of debt service on bonds or other indebtedness of the district.

(g) Refinancing any matured or unmatured bonds with new bonds.

(h) Incurring expenses of the district incident to and reasonably necessary to carry out the purposes specified in this paragraph.

14. "Revenue bonds" means those bonds that are issued pursuant to section 48-720 and THAT are secured by a pledge of revenues of the district or revenues collected by the COUNTY OR municipality and returned to the district.

15. "Treasurer" includes any person or official who performs the duties of treasurer of the municipality or county or any person appointed by the district board as the district treasurer pursuant to section 48-711, subsection D.

Sec. 2. Section 48-717, Arizona Revised Statutes, is amended to read: 48-717. Finances

~~A. Except as provided in subsection B of this section,~~ The projects to be constructed or acquired as shown in the general plan may be financed from the following sources of revenue:

1. Proceeds received from the sale of bonds of the district.
2. Monies of the municipality or county contributed to the district.
3. Annual tax levies.
4. Special assessments.
5. State or federal grants or contributions.
6. Private contributions.
7. User, landowner and other fees and charges.
8. Proceeds of loans or advances.
9. Any other monies available to the district by law.

~~B. A district formed by a county shall not levy an ad valorem tax pursuant to section 48-723 or issue general obligation bonds pursuant to section 48-719.~~

Sec. 3. Section 48-719, Arizona Revised Statutes, is amended to read: 48-719. General obligation bonds; tax levy

A. At any time after the hearing on formation of the district, the district board, or, if before formation, the governing body, may from time to time order and call a general obligation bond election to submit to the qualified electors of the district or to those persons who are qualified to

1 vote pursuant to section 48-707, subsection G the question of authorizing the
2 district board to issue general obligation bonds of the district to provide
3 monies for any public infrastructure purposes consistent with the general
4 plan. The election may be held in conjunction with the formation election.

5 B. If general obligation bonds are approved at an election, the
6 district board may issue and sell general obligation bonds of the district.

7 C. If the bonds are to be sold in a public offering, no bonds may be
8 issued by the district unless the bonds receive one of the four highest
9 investment grade ratings by a nationally recognized bond rating agency.

10 D. The district may issue and sell refunding bonds to refund any
11 general obligation bonds of the district. If general obligation bonds are
12 issued to refund any general obligation bonds of the district no election on
13 the issuance of such refunding bonds is required.

14 E. After the bonds are issued, the district board shall enter in its
15 minutes a record of the bonds sold and their numbers and dates and shall
16 annually levy and cause an ad valorem tax to be collected, at the same time
17 and in the same manner as other taxes are levied and collected on all taxable
18 property in the district, sufficient, together with any monies from the
19 sources described in section 48-717, to pay debt service on the bonds when
20 due. Monies derived from the levy of the tax provided in this section when
21 collected constitute funds to pay the debt service on the bonds and shall be
22 kept separately from other funds of the district.

23 ~~F. A district formed by a county shall not call a general obligation~~
24 ~~bond election or issue general obligation bonds.~~

25 Sec. 4. Section 48-723, Arizona Revised Statutes, is amended to read:

26 48-723. District taxes: annual financial estimate and budget

27 A. Except as provided in subsection D of this section and at any time
28 after the hearing on formation of the district, the district board, or, if
29 before formation, the governing body, may call an election to submit to the
30 qualified electors of the district or to the persons qualified to vote
31 pursuant to section 48-707, subsection G the question of authorizing the
32 district board to levy an ad valorem tax on the assessed value of all the
33 real and personal property in the district at a rate or rates which do not
34 exceed the maximum rate or rates specified in the ballot. All taxes
35 attributable to the operation and maintenance expenses of the district,
36 excluding expenses for an area described in section 48-709, subsection G,
37 shall not exceed an amount equal to thirty cents per one hundred dollars of
38 assessed valuation for all real and personal property in the district, unless
39 a higher rate is approved by a vote of the electors of the district, or by
40 the persons who are qualified to vote as provided in section 48-707,
41 subsection G, voting at an election not less than three years after the date
42 of the formation of the district. The election may be held in conjunction
43 with the formation election. Once approved at an election, the maximum rate
44 remains in effect until increased or decreased at a subsequent election. If
45 a maximum rate is in effect, the district board, on petition of twenty-five

1 per cent of the qualified electors of the district, or by those persons
2 owning twenty-five per cent of the land area who are qualified to vote
3 pursuant to section 48-707, subsection G, shall call an election to reduce
4 the maximum tax rate but not below the lesser of that rate determined by the
5 district board to be necessary to maintain the district's facilities and
6 improvements or the actual rate then in effect. On the presentation to the
7 district board of a petition signed by the owners of a majority of the
8 property in the district, the district board shall adopt a resolution to
9 reduce or eliminate the portion of the tax, beginning the next fiscal year,
10 required for one or more enhanced municipal services specified in the
11 petition. Signatures on a petition to reduce or eliminate a tax are valid
12 for a period of sixty days.

13 B. The district may not levy, other than for the payment of debt
14 service on general obligation bonds, at a rate or rates in excess of the
15 maximum rate then in effect.

16 C. When levying an ad valorem tax, the district board shall make
17 annual statements and estimates of the operation and maintenance expenses of
18 the district, the costs of capital improvements to be financed by the tax
19 levy or levies and the amount of all other expenditures for public
20 infrastructure and enhanced municipal services proposed to be paid from the
21 tax levy or levies and of the amount to be raised to pay general obligation
22 bonds of the district, all of which shall be provided for by the levy and
23 collection of ad valorem taxes on the assessed value of all the real and
24 personal property in the district. The district board shall file the annual
25 statements and estimates with the clerk. The district board shall publish a
26 notice of the filing of the estimate, shall hold hearings on the portions of
27 the estimate not relating to debt service on general obligation bonds and
28 shall adopt a budget. The board, on or before the date set by law for
29 certifying the annual budget of the COUNTY OR municipality, shall fix, levy
30 and assess the amounts to be raised by ad valorem taxes of the district and
31 shall cause certified copies of the order to be delivered to the board of
32 supervisors and to the department of revenue. All statutes relating to the
33 levy and collection of general county taxes, including the collection of
34 delinquent taxes and sale of property for nonpayment of taxes, apply to the
35 district taxes provided for by this section.

36 ~~D. A district formed by a county shall not levy an ad valorem tax.~~

37 D. A DISTRICT MAY CONTRACT WITH A PUBLIC BODY FOR PAYMENT OF TAXES,
38 ASSESSMENTS AND INTEREST BY THE PUBLIC BODY TO THE DISTRICT AS PROVIDED IN
39 SECTION 48-920.